

TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE: Michael David McClain)
 Map 051-07-0, Parcel 33.00) Davidson County
 Residential Property)
 Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$25,000	\$106,500	\$131,500	\$52,600

An Appeal has been filed on behalf of the property owner with the State Board of Equalization. The appeal was timely filed on September 20, 2005.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on February 10, 2006, at the Davidson County Property Assessor's Office; present at the hearing were Michael David McClain, the taxpayer who represented himself; Mr. Dennis Donovan, MAI, Division of Assessments for the Metro. Property Assessor and Mr. Jason Poling, Residential Appraiser, Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 1109 Saunders Avenue in Nashville, Tennessee.

The issue before the administrative judge is one of classification of the property, is this residential property¹? The taxpayer has a single family home in Davidson County that he rented to persons who happen to have a mental disability. Mr. McClain established that he rents to the individuals (collective exhibit #1) and not to an organization. The County claims that since Mr. McClain rents to two (2) or more individuals who are not related who have this disability that the residence is in fact a group home and should carry a commercial classification. The County can not explain how Mr. McClain's arrangement differs from a homeowner who rents a single family

¹ Residential property is defined as a vacant or improved parcel of land devoted to or available for use as an abode, e.g., single-family homes. *The Dictionary of Real Estate Appraisal*, 4th ed., 2002.

residence to college students or to a couple who live together without the benefit of marriage. The only difference is that fact that these particular renters happen to have a mental disability.

The subject property, without dispute, is a single family residence, not a duplex. On the outside, as exhibited by the photographs in collective exhibit one, the subject property looks like any other home situated in this tranquil residential neighborhood.

It is undisputed and an established fact that taxpayers/homeowners who may own any number of single family residences may rent them out rather than live in them and still have advantage of the 25% assessment rate.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board*, 620 S.W. 2d 515 (Tenn.App. 1981)

The administrative judge finds that based on the proof established at the hearing, the leases, photos, and the testimony of the taxpayer, the subject property is a single family residence entitled to an assessment rate of 25%. The taxpayer has sustained his burden in this cause.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$25,000	\$ 106,500	\$131,500	\$32,875

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be

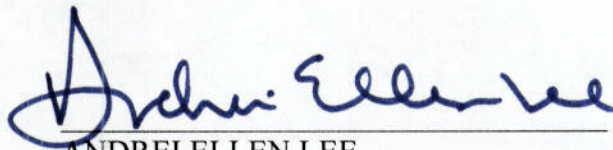
filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 21st day of February, 2006.

A handwritten signature in blue ink, appearing to read "Andrei Ellen Lee", is written over a horizontal line.

ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
STATE BOARD OF EQUALIZATION

cc: Mr. Michael McClain, Taxpayer
Dennis Donovan, Metro. Tax Assessor's Office
Jason Poling, Metro. Tax Assessor's Office